IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.404 OF 2015
IN

CRIMINAL APPEAL NO.654 OF 2012

Mrs. Rekha Mahendra Chheda .... Applicant

Vs.

The State of Maharashtra & Ors. …. Respondents

Mr. Laxmikant M. Shukla alongwith A.S. Varma, Advocate for the Applicant.

Ms. A. Malhotra, APP for the State.
Mr. Amar Talreja and Anand Talreja, Advocates for respondent no.2.

Coram : Smt. R.P. SondurBaldota, J.
Date : 9th February, 2016.

P.C.

1 This Revision Application is preferred against the concurrent findings of the courts below, as regards the conviction of the applicant and the sentence awarded to her in CC No.1245/SS/2010 filed for the offence punishable under Section 138 of Negotiable Instruments Act by respondent no.2. The cheque in question was in the sum of Rs.50.00 lacs. When it was presented for payment, it was dishonoured for the reason of “insufficient funds”. Thereafter respondent no.2 had issued the statutory notice dtd.10th April, 2010.

2 According to respondent no.2, he had given a loan in the sum of Rs.50.00 lacs to the applicant by two cheques dtd.27th April, 2007 each in the sum of Rs.25.00 lacs. drawn on the joint account of respondent no.2 and his wife, held with ICICI Bank. One of the cheques was signed by respondent no.2 and the other by his wife. It is the contention of respondent no.2 that the loan was repayable with interest @24% per annum. Against that liability, the cheque in question had been issued by the applicant.

3 The applicant had replied the notice claiming that the cheque in question formed part of the cheque-book, which was misplaced by her. The reply however stated no details whatsoever about the misplaced cheque-book. During the course of the trial, the other defence taken by the applicant was that the amount of Rs.50.00 lacs was received by her towards the brokerage for sale of bungalow of respondent no.2, which was sold to one Shivkumar through another broker by name Gaffar. This would mean that the applicant was not the broker for sale of property of respondent no.2 and as such there could be no question of paying any brokerage to her. In any case, it was not even suggested to respondent no.2 in his cross-examination that the amount of Rs.50.00 lacs received by the applicant was towards the brokerage for sale of bungalow. Admittedly, the bungalow was sold for Rs.7.00 Crores.

4 Mr. Shukla, the learned advocate for the applicant sought to argue that the cheque in question had been stolen by respondent no.2 from the cheque-book. This argument deserves outright rejection, since the same was not the case before the courts below at any point of time. The concurrent findings of the courts below are seen to be completely supported by the material on record. The applicant examined herself and the officer of the bank in order to establish that her cheque-book was misplaced and that she had issued notice for stopping payment on the cheques in the misplaced cheque-book. However, neither her own evidence nor the evidence of the bank witness established the fact.

5 For the above reasons, the application is dismissed. The applicant to surrender to her bail bonds before the trial court on/or before 9th March, 2016.

(Smt. R.P. SondurBaldota, J.)